

# THRINGS

SOLICITORS

EQUINOR NEW ENERGY LIMITED  
E-mail: [info@sepanddep.co.uk](mailto:info@sepanddep.co.uk)

9 June 2021

Your Reference: EN010109  
Our Reference: [N2994-1/DCM]

██████████ ██████████  
Email: ██████████@thrings.com

Dear Sir and/or Madam

## Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010

Application by Equinor New Energy Limited (“ENEL”) (“the Applicant”) for an Order granting Development Consent of the proposed Sheringham Shoal Extension Project (“SEP”) and Dudgeon Extensions Project (“DEP”) (“the Project”)

**OBJECTION: In response to formal phase two consultation: Thursday 29 April to Thursday 10 June 2021**

We are instructed by Mr Keith Nichols and Mr Philip Hunter(‘our Clients’) of ██████████  
██████████ ██████████ (‘the Property’)<sup>1</sup>.

### 1. BACKGROUND

- 1.1. Our Clients own a freehold interest in and reside at the Property and is a Category 1 Interested Party for the purposes of the Planning Act 2008 (‘the Act’).
- 1.2. We note that Applicant has put forward three possible cable corridor routes from Weybourne to Bodham being:
  - 1.2.1. Following the alignment of Sandy Hill Lane - the cable(s) would be laid through open cut trenching in the carriageway,
  - 1.2.2. Following the alignment of Sandy Hill Lane - using trenchless crossing techniques, and

---

<sup>1</sup> HMLR office copy register and plan for the Property is provided at Enclosure 1 of this consultation response.

Stuart Court ■ Salisbury Road ■ Romsey ■ SO51 6DJ ■ Tel: 01794 310 300

Email: [solicitors@thrings.com](mailto:solicitors@thrings.com) ██████████ Also in Bath, Bristol, London and Swindon

- 1.2.3. Through commercial forestry (Weybourne Wood) - either by open cut trenching along existing forest tracks or using trenchless crossing techniques.
- 1.3. The Applicant's current preference as expressed to our Clients' neighbours in open correspondence is *"to use a trenchless crossing beneath Sandy Hill Lane, however more detailed investigation into the ground conditions at this location is required to confirm that this is a feasible option from an engineering perspective. The final option will therefore be based on a balance of technical and environmental consideration as well as any feedback received at phase two consultation"*.
- 1.4. The proposed route should be wholly rejected and a more easterly route adopted.
- 1.5. Our primary contention is that if new infrastructure is needed at all (i.e. if the co-locations of infrastructure with Hornsea Three is properly considered and rejected) then the preferred option should be to adopt a route through the commercial forestry in Weybourne Wood. It should apply trenchless technology to follow the easternmost tracks using established logging routes. We have enclosed a document setting out our preferred route in yellow.
- 1.6. Second, the Applicant has failed to assess the cumulative landscape and visual impacts of a further option in the decision-making process; namely an agreement between the Applicant and the Hornsea Three Offshore Wind Farm ("Hornsea Three") promoted by Orstead Hornsea Project Three (UK) Limited) to share pre-existing infrastructure for the onshore cable route. That infrastructure has the benefit of an order for development consent dated 31 December 2020. We have information to indicate the onshore cable ducts are wide enough to accommodate the cables required for this extension project.

## **2. OBJECTIONS TO THE CURRENT PROPOSAL**

- 2.1. Our Clients object to the following options for onshore cables to be installed along Sandy Hill Lane by cables to be laid through open trenching cut in the carriageway or using trenchless crossing techniques ("the Sandy Hill Lane options")
- 2.2. We have instructions that a proposal has been floated about routing the cables under the western part of our Clients' Property. This too will cause unacceptable disruption and harm to our Clients' interests and use of their Property ("Property option").
- 2.3. The operations associated with the Sandy Hill Lane options and Property option will cause significant detrimental harm to our Clients on a daily basis for a substantial period of time before and during the course of the works to implement, construct and lay the cables.
- 2.4. The negative and unacceptable impacts include but are not limited to:
  - 2.4.1. Disruption for road users and pedestrians. The works will be problematic from the point that Sandy Hill Lane is an exceptionally busy, steep and narrow highway used by commercial traffic and holidaymakers. If the road is closed for any period

of time, then the DCO will inevitably require the making of diversions and require further works to provide alternative access. Similarly, this may even be necessary if trenchless technology is used. There will be direct disruption to our Clients if the Sandy Hill Lane options and Property option are adopted. It is not sufficient for the Applicant to proceed upon the basis that the works and disruption are compensable where there is a perfectly serviceable eastern route through the commercial forestry. Furthermore, it is unclear whether both projects /cables will be undertaken simultaneously or whether one cable will be laid first followed by the second which would increase and prolong disruption.

2.4.2. Noise and disturbance to wildlife and habitats. The established and mature woodland comprised in our Clients' Property is not subject to disturbance by commercial forestry and hence our Clients' Property is likely to be the most undisturbed existing habitat for protected wildlife. The commercial woodland is far less likely to have habitats value. The Applicant ought to ensure that its environmental statement fully considers the comparative disturbance and habitat value of our Clients' undisturbed woodland in comparison to that in the commercial forestry of Weybourne Wood.

2.4.3. Value: Expensive and disruptive cabling routing by the Sandy Hill Lane options or Property option will inevitably require greater compensable negotiations than the adoption of a single route through the eastern edge of Weybourne Woods. It will also cause less expense and cost in respect of alternative works, diversion and mitigation.

2.5. Our Clients are clear that inadequate information has been provided by the Applicant during the consultation period to our Clients in respect of what may possibly happen to the Property. For example, access and/or alternative access and noise and vibration considerations have not been adequately assessed, and options have not been set out in sufficient detail for intelligent consideration. There is considerable concern over the lack of detail in respect of the electro magnetic fields (EMF") and the impact on health, environment and technology such as agricultural and vehicular software.

### **3. OUR CLIENTS PREFERRED OPTION INSIDE THE LIMITS OF DEVIATION**

3.1. Subject to our contention elsewhere in respect of co-location with Hornsea Three our Clients propose that the onshore cable route should comprise works to the eastern part of Weybourne Woods. This is owned and operated as a commercial forestry. We attach an illustration of a possible route (Enclosure 2) that would be within the limits of the Onshore Works Plan (Enclosure 3). We describe this as the Weybourne Wood option. The benefits of this route include but are not limited to:

3.1.1. No disruption to existing traffic flows;

3.1.2. No disruption to access of local residents including our Clients;

- 3.1.3. No requirement for major diversions;
- 3.1.4. Trenchless technology or open trenching could be used (albeit that trenchless technology is preferred provided no works are in the vicinity of the Property).
- 3.2. Greater weight should be attributed to the Weybourne Wood option which would be preferential for our Clients provided of course that it was far enough east of their dwelling to avoid disturbance; it plainly appears from the consultation documents to cause the least amount of direct and indirect harm to our Clients' property and our Clients' lives in respect of their right for quiet enjoyment of and access to their Property.

#### 4. CO-LOCATION OF THE ONSHORE CABLE CORRIDOR ROUTE

- 4.1. We respectfully suggest that the Applicant has failed to consider a critical option for the cable corridor; namely sharing the on-shore cable corridor with an existing windfarm development which our Clients have been told is the 'Mangreen Corridor'. Our Clients believe this corridor could form part of Hornsea Three, but cannot be certain that this is the case. Pending your clarification on this point, we have made reference to the shared corridor being part of Hornsea Three. In this letter it is defined as "shared infrastructure option". It is possible the Hornsea Three development consent order has been drafted so that the works could accommodate the onshore cables required for this Project.
- 4.2. Notwithstanding the Applicant's suggested options for the onshore cables in the vicinity of the Property, before proceeding any further the Applicant should justify why it has failed to consider the positive and obvious cumulative landscape and visual impacts on the area that the shared infrastructure option would provide.
- 4.3. The Applicant has failed to complete a consultation process in line with the statutory requirements; as the community have not been consulted on the shared infrastructure option.
- 4.4. Accordingly, our Clients reserve the right to argue that the Applicant has failed to satisfy the compelling public interest test for any/all subsequent compulsory acquisition.
- 4.5. The Applicant's proposed options are fundamentally flawed in respect of the environmental impact assessment ("EIA") and rationality. The judgement of Sir David Holgate in *Pearce v Secretary of State for Business, Energy and Industrial Strategy* [2021] EWHC 326 (Admin) strongly indicates a failure to properly engage with and present adequate information about the adverse cumulative impacts of two similar projects resulted in the development consent order being quashed.
- 4.6. By failing to justify the failure to consider co-location benefits of a shared infrastructure option the Applicant has omitted from consideration the possibility of avoiding all the impacts associated with the proposed onshore cable route. Co-location

of the Hornsea Three and this Project goes to the heart of acceptability of the future proposed Project.

## **5. SUMMARY**

- 5.1. For the reasons stated above our Clients object to all options that require any acquisition of interests or rights in their Property including:
  - 5.1.1. Any development or works or acquisition of any interest or rights under, across or comprising interests their Property;
  - 5.1.2. Works following the alignment of Sandy Hill Lane howsoever implemented.
- 5.2. If the proposed line of deviation is to be maintained, then the onshore cabling should be implemented by following a route in the far eastern area of the commercial forestry in Weybourne Woods.
- 5.3. The Applicant must re-examine the possibility of a shared infrastructure option.
- 5.4. Our Clients do not feel that adequate information has been provided by the Applicant during the consultation period to our Clients or their neighbours in respect of what may possibly happen to their Property; if either of the Sandy Hill Lane options. For example, access and/or alternative access and noise and vibration considerations.

## **6. PROPOSED WAY FORWARD**

- 6.1. As noted above, the options currently considered by the Applicant are deficient and are fundamentally flawed at law.
- 6.2. The only way for the Applicant to remedy these defects are for any works within the proposed line of deviation to be implemented on the far eastern edge of the commercial forestry. However, this is likely to be unnecessary if the Applicant examines a shared infrastructure option with common landfall and onshore cable infrastructure.
- 6.3. The Applicant is at the early stage of the development consent order process and this letter has identified an early opportunity workstream that must be given significant and reasonable weight.

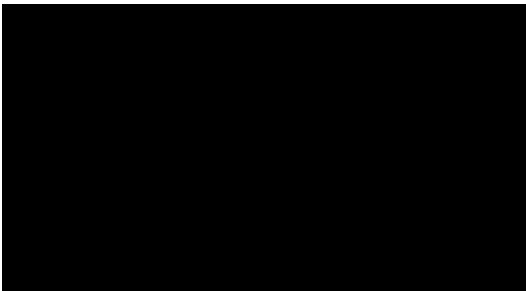
In our view, the fourth option clearly requires immediate consideration ensuring that the holistic impact of the Project can properly be considered in full.

The task before the Secretary of State is to consider all the cable route options. He must at least have regard to the relevant fourth option.

Please confirm safe receipt of this e-mail. A copy of this correspondence has been sent to the Planning Inspectorate.

We reserve our Clients' right to make these and any other relevant objections and representations in the event that there is a formal application for the making of a development consent order for the Project.

Yours faithfully



Diana Miller  
Solicitor - Planning  
**Thrings LLP**

Enc:

HM Land Registry Title No. NK410274 office copy register and plan.

Sheringham Shoal and Dudgeon Extension Projects - Onshore Works Plan (Draft) Page 4 of 42.

Email from info@sepanddep.co.uk dated 18 May 2021 @9:39 hours).